

EPA to Enact Long-Contested Smog Standard;

A court settlement with environmental groups requires the agency to begin enforcing the pollution rules, stymied five years by challenges.

November 14, 2002 Thursday, Main News Main News; Part 1; Page 16; National Desk,
Gary Polakovic, Times Staff Writer

In a decision that could signal a broad, new assault on smog, the U.S. Environmental Protection Agency agreed Wednesday to put in place a long-contested pollution standard that will make the air cleaner by increasing regulations in dozens of cities from coast to coast.

A court settlement between the EPA and environmental groups requires the EPA to begin enforcing the standard, which has been stymied for the last five years by lawsuits and industry challenges.

The new standard, developed in 1997 under the Clinton administration, allows less ozone, one of the two most pernicious air pollutants.

In all, about 320 communities in 38 states could be reclassified as "non-attainment." That designation would require them to prepare smog-cleanup plans and implement them in a timely manner. Half of California's 58 counties would not be able to meet the new eight-hour ozone standard. Until now, California's ozone standard has been the most restrictive in the nation.

Some communities that have never imposed smog controls will be required to do so for the first time. Others, including San Francisco, Ventura and San Diego, which have largely complied with the existing smog standard, will have to make additional emissions cuts.

"It's a new chapter. We're going to have air-pollution standards based on science, and the science shows that air isn't safe to breathe," said Carl Pope, executive director of the Sierra Club. "There will be some new costs, but we're getting cleaner air in return, fewer cases of asthma, less emphysema and more days kids can play outside."

Industry representatives warn that the costs will be prohibitive and will lead to regulations that will be onerous to businesses all over the country.

"This is one of the most expensive environmental regulations ever. This will affect just about everybody," said Jeffrey Marks, director of air quality for the National Assn. of Manufacturers.

"It will mark hundreds of new counties as Clean Air Act violators. It's going to label areas with a stigma that will create a negative perception. Businesses will be unlikely to invest in those areas where there are excessive costs due to regulation. It will result in loss of jobs and decreased investment in those areas."

Even though all smoggy cities in California and the rest of the nation are already subject to smog-abatement measures established under the Clean Air Act, there is widespread agreement among health experts that those measures do not adequately protect public health.

In the settlement filed Wednesday with U.S. District Court in Washington, D.C., the EPA agreed to designate cities that fail to meet the new ozone standard by April 2004. Under that limit, ozone cannot

exceed more than 0.08 parts per million during any eight-hour period.

The measure is stricter than the existing national standard, which restricts ozone that people are exposed to during a one-hour period, and offers more protection for people, including children, construction workers and others who spend considerable time outdoors. Ozone is a colorless gas that damages lung tissue and causes headaches and nausea.

Under a separate, but related, effort, the EPA has already begun to identify communities that fail to meet a 1997 standard for microscopic particles, called PM2.5.

New limits for those tiny flecks, a fraction of the diameter of a human hair, were established at the same time as the new ozone standard and will begin to take effect by 2005.

Although California is the nation's smoggiest state, communities likely to be most affected by the EPA's decision are in the Midwest and Southeast. Those regions are home to more lenient pollution controls and to many old, heavily polluting power plants.

Anti-smog measures long used in California, including Smog Check and vapor recovery nozzles at gas stations, could be instituted for the first time from Sheboygan, Wis., to Jefferson County, Mo., to Jeffersonville, Ind.

How much the new regulations will cost is open to debate. The EPA says costs could reach \$60 billion, although industry groups say it will be more.

The EPA says better air-quality standards will prevent 15,000 premature deaths, 350,000 cases of asthma and 1 million cases of diminished lung function in children.

The manufacturers' group, the American Truckers Assns., and the U.S. Chamber of Commerce were among several business groups that sued the Clinton administration to block the new pollution standards. The fight reached the U.S. Supreme Court, which affirmed broad portions of the plan, but sent other parts back to the lower court for review.

In March, the U.S. Court of Appeals removed the remaining objections, although no dates were established for the EPA to begin proceeding with the new air-quality standards until Wednesday's court agreement.

The EPA will have to determine how much time each community has to comply with the new standard. That will be decided on a case-by-case basis as the EPA gathers more pollution data on various cities in the next couple of years. A community's failure to meet the new standard can result in loss of federal highway improvement funds and penalties that restrict economic development.

But it will be up to the EPA to decide whether to impose those sanctions, actions that the agency has often been reluctant to take.